



MSD BOARD OF DIRECTORS

MINUTES OF MARCH 12, 1976 MEETING

BOARD MEMBERS IN ATTENDANCE

Ray Miller, Chairman
Miller Duris
Charles Becker
James Robnett
Mel Gordon

ADVISORS IN ATTENDANCE

Dean Gisvold, Attorney
Warren Iliff, Portland Zoo

GUESTS IN ATTENDANCE

List attached.

STAFF IN ATTENDANCE

Charles Kemper
Merle Irvine
Cordell Ketterling
John Hankee
Jean Woodman

The clerk called the role and there being a quorum present, the Board considered the following items of business:

76-486 MINUTES

Mayor Duris moved to approve the minutes of the February 27, and March 5, 1976 meetings. Councilman Becker seconded the motion. The motion carried unanimously by roll call vote. (Commissioner Gordon was not present.)

76-487 PUBLIC COMMUNICATIONS

Commissioner Miller asked if there was anyone in the audience that wished to address the Board on matters not listed on the meeting agenda, and there was no response.

76-488 ACCOUNTS PAYABLE

Councilman Becker moved to approve the Accounts Payable listing Vouchers No. 379 through 388 in the total amount of \$11,461.71. Mayor Duris seconded the motion. The motion carried unanimously by roll call vote. (Commissioner Gordon was not present.)

76-489 JOHNSON CREEK REPORT AND RECOMMENDATIONS

Mr. Hankee reviewed the staff report presented to the Board outlining the recommendations and findings reported by the MSD Johnson Creek Hearings Officer. Some highlights of the staff report as pointed out by Mr. Hankee, were utilization of an election or series of public hearings after the three-year period to determine continuation of the program; and the Hearings Officer's recommendation to adopt a minimum flat fee during the interim period. On this recommendation, staff felt the flat fee was open to challenge and that a fee based on impervious surface to be more equitable. Mr. Hankee stated that an impervious surface fee would retain a maximum amount to be paid by one property owner with variations and exceptions set out when the rate ordinance is developed. He also stated that the problem of one property owner having several tax lots on which the fee would be paid had been raised in public hearing, and that this would have to be taken into account and another limitation set on the ordinance.

There was some discussion on a building moratorium in the basin as an alternative to the MSD Plan. Mr. Hankee stated that this solution had been raised in the past and presented to CRAG and the local jurisdictions with the resulting decision that a moratorium at this time was not feasible. It was the local entities feeling that an attempt such as the MSD Plan should be made to solve the problem before an alternative moratorium is considered.

Staff recommendation was that the Board authorize development of a detailed ordinance adopting the Johnson Creek Drainage Management Program for hearings in April, and to authorize staff to seek state support for year one funding.

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Dr. V. V. Shaul1, 19019 SE Powell, Gresham, addressed the Board speaking against the plan. He felt the plan represented an additional bureaucracy set up to create additional taxes on older citizens in the area. Commissioner Gordon stated that a flooding problem existed in the Johnson Creek area and MSD was responsible to find a solution which the Drainage Plan represented. He also stated that older people in the area were excepted to taxes of this type and would not be affected.

Commissioner Gordon felt that the plan should be brought before the property owners in the area for hearings, recommending early notification of property owners and other groups and organizations in the area of the impact the plan may have on them. He also felt it would be beneficial to hold the hearings in the jurisdictions affected and to hold them at night to accomodate the largest number of people.

Commissioner Gordon moved to authorize staff to develop a detailed ordinance adopting the plan for submittal to the Board for hearings during April 1976, modifying the plan as recommended in the staff report; and to authorize staff to seek state funding in the amount of \$150,000. Mayor Duris seconded the motion. Discussion followed.

A question was raised from the audience as to the necessity of more hearings when previous testimony indicated that the people in the area did not want the plan. Mr. Kemper answered that Board direction to staff was to hold three public hearings to receive input to the plan and that this input was received and the plan modified accordingly. Hearings would now be held on the modified plan.

Mr. Jerry Bell, Chairman of the Johnson Creek Citizen Committee, addressed the Board stating that while the plan was not perfect it was a start, and that several attempts at solving the problem failed in the past, and that the MSD plan should be pursued.

In discussion of public reaction to the plan, Councilman Becker stated that he did not feel the people were opposed to the plan but rather were opposed to the method of funding. He also presented a resolution from the City of Gresham in support of the Johnson Creek Drainage Management Plan.

The question was called on the motion, and the motion carried unanimously by roll call vote.

76-490 ORDINANCE NO. 37 - FIRST PUBLIC HEARING

An ordinance amending Ordinance No. 33 schedule of user fees.

Commissioner Miller opened the public hearing to receive testimony on Ordinance No. 37, asking if there was anyone in the audience that did not have a copy of Ordinance No. 37 and wished one. There was no response.

Motion 76-490.A:

Commissioner Gordon moved to read Ordinance No. 37 by title.

Mayor Duris seconded the motion. The motion carried unanimously by roll call vote.

The clerk read Ordinance No. 37 by title.

Mr. Irvine reviewed the ordinance outlining the amendment of the rate schedule from public/private portions to total public. He stated that with the failure of Parker Northwest's financing, the ordinance would have to be increased to include the private portion of funding for equipment, and to show the Emergency Board MSD's ability to repay an increased loan/grant funding. Mr. Irvine also reviewed a chart setting out the increase to the homeowner and an increase at the site of 2¢ compacted and non-compacted cubic yards.

Commissioner Gordon proposed approval of a resolution to the jurisdictions urging their support for a pass-on of the increase in cost to industry created by the ordinance, and stating that it was not the Board's intent that industry bear the burden of increased disposal costs. Councilman Becker concurred with Commissioner Gordon that a pass through was necessary, but felt the jurisdictions, when approached for increased rates, would consider the reasons for the increase without a resolution of this type. He stated, however, that he would support the resolution.

Motion 76-490.B:

Mayor Robnett moved to direct staff to prepare a resolution notifying the local jurisdictions of the increase in disposal rates. Commissioner Gordon seconded the motion. The motion carried unanimously by roll call vote.

Mr. Irvine reviewed the proposed deletion of Section 1.A.(3) of Ordinance No. 37, indicating that the section provided for public use at the sites at a fixed fee of 15¢ per load. He stated that this amendment had been added at the third hearing on Ordinance No. 33 and proposed by the demolition operators. Staff has since had an opportunity to analyze the effects of the fixed rate and did not feel it equitable with industry. The Solid Waste Committee will consider a possible amendment to this section for Board consideration at the second hearing.

Mr. Dave Miller, addressed the Board questioning the slide in the operation schedule and if six months would be added to Phase I. Mr. Kemper stated that if the Emergency Board allowed MSD to proceed, there would be a slide due to the bidding process, but that the rate ordinance could be imposed at the signing of the Grant/loan Offer and Acceptance.

Mr. Carl Miller questioned MSD's ability to impose the user fee if industry filed an injunction against MSD. Mr. Gisvold answered that MSD would, of course, have to comply with whatever the court's decision was on the such an injunction.

Motion 76-490.C: Commissioner Gordon moved to set the second public hearing on Ordinance No. 37 for March 26, 1976.

Mayor Duris seconded the motion. The motion carried unanimously by roll call vote.

76-491 POTENTIAL REVENUE SOURCES

The Board considered a staff report responding to Board direction to research possible means of funding for MSD. Staff reviewed two legal opinions dated October 1970 and April 1971 which listed possible revenue sources by means of user charges against waste oils, junk automobiles, waste appliances or "white goods", and septic tank pumpings. Mr. Kemper reviewed the staff report covering the possibilities of these wastes as revenue, stating that a detailed study of the four wastes would require extensive staff time and would have to be paid for by the Solid Waste Program.

Commissioner Gordon questioned whether MSD could implement Ordinance No. 33 at the lower rate to cover their costs until the State approves the Grant/loan Application, and if the State refuses the application, if MSD could increase the rate in Ordinance No. 33 to cover the entire capital and construction costs and implement the program. Mr. Gisvold felt that the answer to the second part of Commissioner Gordon's question was yes, in that the service MSD would be providing was sufficient pending implementation of the plan, and that the Attorney General's opinion made prior to approval of MSD's legislation indicated that: "It is abundantly clear, therefore, nothing in the Act (Metropolitan Service District Act) prohibits the use of service or user charges for the operation of the District, for capital improvements and maintenance thereof, and for the payment of bond principal and interest." Mr. Gisvold, however, felt that the first part of the question dealt with the issue of planning versus implementation which should be researched when the use of excise taxes were considered.

Commissioner Gordon moved to direct staff to proceed to research the use of Ordinance No. 33 for funding the capital acquisition to implement the program. Mayor Duris seconded the motion. The motion carried unanimously by roll call vote.

76-492 ZOO BUDGET DISCUSSION

Mr. Irvine discussed the requirements under ORS 294.665 which requires the district when holding a serial levy to submit a budget and breakdown of the funds requested to the Tax Supervision and Conservation Commission. The filing was required to be made 60 days prior to the election. Mr. Irvine submitted a budget developed by the Zoo staff, recommending that the Board appoint a Zoo Budget Committee to meet prior to March 26, 1976, and develop recommendations to the Board.

In discussion of the Zoological Society's position after a merger between MSD and the Zoo, Commissioner Gordon suggested that the Chairman appoint one or more members from the Board to sit on the Zoological Society's Executive Board, and there was a consensus in favor of this suggestion. Mr. Illif, of the Portland Zoo, stated that this could be done during the rewrite of the Zoo's bylaws. Commissioner Miller stated that Mr. Illif's position of working for both the MSD Board and the Zoological Society should be considered carefully to avoid any future difficulties.

Commissioner Gordon moved to appoint a Budget Committee made up of Board members or their designated persons to view the Zoo Budget and make recommendation to the Board on March 26, 1976. Mayor Duris seconded the motion. The motion carried unanimously by roll call vote.

Commissioner Miller appointed himself, Mayor Duris, Mike Downs for Commissioner Gordon, and John Wight for Commissioner McCready as the Zoo Budget Committee.

OTHER BUSINESS

76-493 Solid Waste Committee Appointments

The Board considered six names proposed for replacement of members on the Solid Waste Advisory Committee.

Mayor Robnett moved to approve staff recommendation for Barbara Lucas, Joe FuGaTe, and John Trout as appointed members of the Solid Waste Committee. Councilman Becker seconded the motion. The motion carried unanimously by roll call vote. (Commissioner Gordon was not present.)

76-494 Zoo-MSD Tax Levy

The Board considered a 150 word explanation of the Zoo-MSD Tax Levy which is allowed by the election division. The Board was in consensus to amend the first word "Regional" to "This".

Mayor Robnett moved to approve the 150 work explanation for the Zoo-MSD Tax Levy as amended. Commissioner Gordon seconded the motion. The motion carried unanimously by roll call vote.

There being no further business to come before the Board the meeting adjourned at 4:00 P.M. All testimony is retained on tapes in the MSD Office.